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IN THE COURT OF COMMON PLEAS, FULTON COUNTY, OHIO

William K. Humbert, et al.,	Case No. 01-CV-274
Plaintiff,	ORDER ON DEFENDANT JENNIFER BORKOWSKI'S MOTION TO HAVE A.J. BORKOWSKI DECLARED A VEXATIOUS LITIGATOR
v.	
Jennifer M. Borkowski, et al.,	
Defendants.	**JUDGMENT ENTRY**

This cause is before the Court on the motion of Defendant Jennifer Borkowski to have A.J. Borkowski declared a vexatious litigator pursuant to R.C. 2323.52. A.J. Borkowski did not file a response to the motion. Upon due consideration of the statutory standard and the facts of this case, the Court finds Jennifer Borkowski's motion well taken and that it should be granted.

Facts and Procedural Background

This case was commenced on December 5, 2001 as a quiet title action against multiple defendants including A.J. Borkowski. Some defendants answered and some did not. Mr. Borkowski filed his answer pro se, with "questions to be answered". Following dismissal of some defendants and a finding of default on others, the remaining defendants were narrowed down to Jennifer Borkowski, Fremont Investment and Loan, and A.J. Borkowski.

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SUPREME COURT OF OHIO

The facts relevant to the quiet title action were not in dispute. The Plaintiffs and Jennifer Borkowski were innocent bona fide purchasers of the properties described in the complaint. They paid fair market value for the parcels. Fremont Investment and Loan acquired its mortgage in good faith and for value. For a long time the case was ripe for summary judgment in favor of Plaintiffs, Jennifer Borkowski, Fremont Investment and Loans, and against A.J. Borkowski. The decision was delayed due to A.J. Borkowski's filing of a barrage of motions, objections to Court's decision, notices of appeal, and accusations of improprieties.

The Court will not enumerate all the documents filed by Mr. Borkowski, except to say that there were over 60 filings, including motions for disqualification of two judges and plaintiff's counsel; motions for default and summary judgment on claims that were not allowed to be filed; motions for stay; motions to vacate almost all judgment entries issued by this Court; notices of appeal; and a host of other motions filed without reasonable basis and without leave of court.

On March 17, 2004, the Final Judgment Entry in this case was issued. Two days later, A.J. Borkowski moved for Stay and for the Court to vacate the Final Judgment Entry. These motions were denied. On April 1, 2004, Jennifer Borkowski filed the motion to have Defendant A.J. Borkowski declared a vexatious litigator. On April 2, 2004, A.J. Borkowski filed a notice of appeal of the Final Judgment Entry. At this point, this Court may not do anything that might interfere with the Court of Appeals' jurisdiction to reverse, affirm, or modify the Final Judgment Entry. However, exercise of jurisdiction over Jennifer Borkowski's motion is not inconsistent with the Court of Appeals' jurisdiction. This Court's determination on the motion to declare a vexatious

litigator will have no effect on the Final Judgment Entry. Therefore, the Court will proceed to consider the motion.

Law and Analysis

"[I]t is a public-policy imperative that [t]he courthouse door must be open to the people of Ohio. See *Chapman v. Adia Services, Inc.* (1997), 116 Ohio App.3d 534, 544, 688 N.E.2d 604. But there is a statutory exception. R.C. 2323.52, the vexatious litigator statute, provides the appropriate procedure whereby parties who persistently abuse the civil litigation process may be restricted in their access to the courts." *In re Bailey*, 1st Dist. App. Nos. C-010015 and C-010186, 2002-Ohio-3801, ¶13.

R.C. 2323.52(A)(3) states, in part, as follows: " 'Vexatious litigator' means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions." "Vexatious conduct" is defined in R.C. 2323.52(A)(2) as meaning "conduct of a party in a civil action that satisfies any of the following:

> (a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action.
> (b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.
> (c) The conduct is imposed solely for delay."

Jennifer Borkowski contends that A.J. Borkowski engaged in vexatious conduct by filing innumerable meritless and exceedingly frivolous motions in this case as well as in other cases that involve both parties. The Court agrees. In light of the history of this

case, the inescapable conclusion is that Mr. Borkowski filed unwarranted claims and pleadings. There were no reasonable grounds for the multiple motions. Moreover, he did so in a "habitual and persistent conduct." His arguments and legal theories, even though rejected by the Court, were repeatedly used as basis for the multiple filings.

In civil cases, the same rules, procedures, and standards apply to one who appears pro se as apply to those litigants who are represented by counsel. "Ignorance of the law is no excuse, and Ohio courts are under no duty to inform civil pro se litigants of the law. * * * " *Jones Concrete, Inc. v. Thomas*, (Dec. 22, 1999), Medina App. No. 2957-M. Despite this standard, The Court has made generous allowances for A.J. Borkowski who proceeded pro se in this case. Mr. Borkowski abused the judicial process.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Jennifer Borkowski's motion to have Defendant A.J. Borkowski declared a vexatious litigator be, and hereby is, granted. This Court finds that A.J. Borkowski's actions constitute sanctionable "vexatious conduct" and declares him a vexatious litigator pursuant to R.C. 2323.52.

Mr. Borkowski is hereby prohibited from filing any motion, pleading, or legal document in this Court without first obtaining leave of Court.

The Clerk of Court shall send a certified copy of this order to the Supreme Court.

Costs of this proceeding shall be assessed to Defendant A.J. Borkowski.

IT IS SO ORDERED.

Hon. Robert C. Pollex, Judge